

# Sinking of vessel as the country's efforts in keeping the utilization of sustainable fish resources

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**Abstract.** Indonesia as a country with considerable fisheries potential has an attraction for the activity of catching fish. Exploitation as well as the demand for fish in the world against the increasing Indonesia country characterized by the presence of Illegal, Unregulated and Unreported Fishing. Therefore, the Government of Indonesia started to renew the regulation of fisheries to Act No. 45 of the year 2009 about Fisheries. One of the sound section is Indonesia's efforts to maintain sustainable fish resources. This particular action is attempting to keep the utilization of sustainable fish resources. In addition, as the participating countries of the 1982 UNCLOS, Indonesia refers to the rules of international law in creating a policy. Article 73 gives the obligation for the State to exercise sovereign that it is necessary to avoid excessive exploitation occurred in the zone. Sovereign right in question is a legal form of enforcement action the scuttling of the vessel.

## 1 Introduction

Sustainable utilization of marine resources are not only useful for the interest of sustainability of fish stocks or economic, but also to the sustainability of fishing community supported by the presence of an integrated institutional sustainability and regulation. One of Indonesia's efforts in implementing it by Law No. 45 year 2009 concerning fishery. Actually, the special action of sinking foreign vessels is a measure set up by the Government of Indonesia by exerting various agencies in the field of marine as the Indonesian Navy (TNI AL), and Task Force (SATGAS) 115. The purpose of such particular Act is to reduce the activity of vessels violations thus it assists Indonesia to conserve fish stocks.

As the largest archipelagic state in the world, Indonesia is known as a maritime state with its huge potential and it gives significant contribution to fisheries for the world. Indonesia is not only evolving habitat for various species of fish, the sea and its archipelago also becomes the object of living communities with various types of businesses. Where 54 percent of national animal protein comes from fish, 37 percent of species of fish and coral reefs, 76 percent of the world's coral species, the value of the resources and services of marine Indonesia reached USD 2.5 trillion/year. This has received much attention for Indonesia to play an important role for economic activities such as fishing, shipping, business or tourism.

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In 2016, 5,329 large ships were above 30 Gross tons (GT) operating in the territorial waters of Indonesia, 20 percent included foreign-flagged vessels. During this time, each ship only accounts for 90 million through the levy invoice on licensing fishing vessels. Whereas in 2000 there were tons of charge once the fish successfully captured. The obvious issue, the value obtained is very large compared to the State value of donated revenue.

Indonesia has a large sea resources especially in maritime sector investment. As well, fishing industry is one type of resources that can always be updated or known as renewable resources. Fisheries production potential of Indonesia up to 2015 could be reached 13.82 million tons. Such formulated number does not include the potential of non-consumption seaweed farming and fish production. With all potentials, Indonesia worth maintaining fish resources, besides an obligation for Indonesia to maintain marine ecosystems with committed on one of the principles of SDGs Goals (principle 14). Indonesia as a community creature has participated in natural resources and it has not yet experienced the significant role of maritime potential owned by its state. From such observations, the presence of the diverse maritime potential in Indonesia such as the marine biotechnology industry, deep ocean waters, or marine energy, maritime tourism and maritime industry can provide a major contribution to the well-being and prosperity towards the people of Indonesia.



Fig. 1. Fisheries Potential in Indonesia.

The Constitution of the Republic of Indonesia 1945 article 33 paragraph (3) stated that “Land and water, and the natural resources found therein, shall be controlled by the state and shall be exploited for the maximum benefit of the people”.

Thus, Indonesia as the maritime state holds the right to set its own rules. In terms of arranging its own state, Indonesia has sovereignty, and in this regard, sovereignty means the full right and power of Indonesia as a coastal State to regulate the territorial waters and exclusive economic zone. If viewed in terms of the sovereignty of the sea, then the rules apply when a foreign ship entered the territorial sovereignty of other States. This means that the foreign vessels shall be subject to regulation in the sovereignty of the countries they visit.

With regard to this issue, United Nations Convention on the Law of the Sea (UNCLOS) 1982 as an official guide for Indonesia in organizing a policy on the sea. UNCLOS supports the presence of the sovereignty of Indonesia to set up territorial waters by the presence of article 73 paragraph (1) of UNCLOS stated that “The coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention.”

Indonesia's marine security still acquires the problem of fishing performed by foreign vessels in the territorial waters of Indonesia which is not in accordance with the applicable provisions. In addition, catching fish illegally has also received much lack of supervision against the management and utilization of fisheries resources which resulted to some areas experienced the pressure of the situation. It is, thus, affected the decrease in the income and welfare of fishermen which resulted in the arrest of illegal fishing. Therefore, the lost amount of foreign exchange when conducting illegal fishing is an estimated 2.000.000.000.000.000 USD [1].

Catching fish illegally has been detrimental to the states not only from State income sectors but also threatens the sustainability of fisheries and marine resources. As well, the wealth of the sea in Indonesia is also destroyed with bombs made from potassium fertilizer. Due to the use of potassium, many coral reefs and fish die. Indonesia as a coastal State has the authority to secure and protect its territorial waters because of the urgency of the needs of a growing national fish and the declining fish shall supply. One of the ways taken by Indonesia to protect marine ecosystem is demonstrated by deliberately sinking vessel.

## **2 Theoretical background**

Jurisdiction is a State-owned authority to make regulations, which according to a. s. Hornby, Jurisdiction is Administration of justice, Legal authority, Right to perform and to extend such exercises. According to the encyclopedia Americana that is quoted in the book Hadiwijoyo Suryo, notions of Jurisdiction is as follows: "Jurisdiction", in law, is defined as a power or term for authority. It is usually applied to courts and judicial bodies, in this regard, the scope of their rights to act. The U.S. applied to a state or particular nation, the terms means the authority to declare and to enforce the law".

Thus, the fact that the jurisdiction is closely related to legal issues, particularly the problem of authority and power occupied by a state agency the other based on the law that applies. Therefore, it is also included that the boundaries or power scope and the authority to create, implement, also apply the applicable law to force it to the parties concerned.

Associated with the State, the jurisdiction of the State power and authority is owned by a state either to create, to execute, or to apply the applicable law or to administer it into parties, based as citizens of the country concerned or the parties residing in the territory of the country.

## **3 Methods**

This research study is conducted in regard to normative juridical research focused on understanding the application of norms in positive law [2] . Research will reviewing and analyzing related specific actions in the form of sinking vessel as an effort of the Indonesian government to safeguard fish resources. In this study reviewing based on international law in the form of UNCLOS 1982 and Law number 45 of 2009 about Fisheries. This study examines the contents of the legal doctrine of a country in implementing a legal rule in the jurisdiction of Indonesia.

## **4 Result and discussion**

### **4.1 UNCLOS 1982**

Every single state has a government responsible for regulating all over its territories. In this point, Indonesia is known as the largest archipelago country in the world should make the jurisdiction implementation based on law of the Sea Convention of 1982 under Indonesia framework to apply exclusive rights against seas area also make it easier to exercise legal authority on its territories, the sovereignty over the sea shows that the independent country against the sea. However, the countries that have ratified the Convention on the law of the Sea 1982, Indonesia has the authority as a coastal State to regulate all activities of fishing that has to be followed in order to achieve the similar objectives with the Convention. In the Convention on the law of the Sea 1982, Indonesia has the authority to regulate fishing activities, Article 56 (1) of the United Nations Convention on the Law of The Sea 1982 affirmed that the coastal State has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds.

The provisions on Chapter V United Nations the Law of The Sea 1982 concerning the exclusive economic zone contains rights and obligations for the various states in the world in the utilization of the wealth of biological sources. The provisions of the United Nations the Law of The Sea 1982 Article 61, makes it easy in terms of restoring and maintaining the population thus as to achieve the level of the equal to or in excess of the rate of reproduction, particularly rare species that suffered a serious threat, later estimated could experience ongoing extinction. And therefore, the exclusive economic zone shall take measures of conservation. The purpose of the determination of the existence of a number of catches in a manner that does not happen to excessive exploitation of the resource wealth of the biodiversity. This designed action also provides sustainable catches (Maximum Sustainable Yield) and coastal States can do patterns of coordination with other coastal States as well as the competent international organization working together and also delivers Exchange of scientific information. Convention on the law of the sea of 1982 applies the principle of sustainable utilization, providing the balance between conservation and utilization. And it highly requires scientific description as well as the arrest of statistic donated and exchanged on a regular basis through international organizations [3].

Part XII of UNCLOS 1982 article 192 indicated that States have the obligation to protect and preserve the marine environment. Countries have the sovereign rights to exploit their natural resources in accordance with the environmental policy as well as the obligation to protect and preserve the marine environment, the State may take either individually or jointly as appropriate, all the necessary actions aimed at preventing, reducing, and controlling pollution of the marine environment from any source. The States shall take the necessary actions to ensure such activities under their jurisdiction or control conducted in such a way that does not occur in environment pollution of states as well as other countries.

The purpose of this formulated action for Indonesia in order to make coral reefs for fish shelter, it is aligned with the principles of sustainable development provide the concept that generations to come will probably have to enjoy minimal resources nature as perceived by the current generations [4]. UNCLOS 1982 sets the General obligation with regard to the protection of the marine environment, where the State bears the responsibility for the conduct of environmental protection and conservation of sea. In addition to that principle 21 of the Declaration of Stockholm also confirmed that countries had the United Nations Charter and the principles of international law, the sovereign right to exploit their own resources in accordance with their own environment and politics responsibility to ensure the activity in their jurisdiction or control do not damage the environment of other States or of areas beyond the limits of national jurisdiction.

Examined in international law, these actions include efforts to protect the region's sovereignty and seen from the aspect of internal sovereignty so this actions that are applied it is right or the exclusive jurisdiction of the State to establish the institutions, the right to make the appropriate legislation and measures to comply with the workings of the institutions. Then added to the sense of power or competence i.e. the jurisdiction of State laws against people, things or events (law), in the scuttling of ships occurred legal events that result in fishing activities, events the legal form of IUUF.

## 4.2 Indonesia

Indonesia through Law No. 45 year 2009 regarding the changes in the law number 31 year 2004 concerning Fisheries applied to the sinking of foreign-flagged vessels. This action is based on Article 69 paragraph (1) and subsection (4) is the legal basis of the action against the scuttling of ships of the perpetrators of the *illegal fishing* which do not have official documents or in violation of the provisions of national laws of Indonesia. Investigators or supervisor fisheries together carry out a specific action by the existence of sufficient evidence of the beginning. Boat fishing supervisor has the rights to carry out the functions of supervision and law enforcement in the field of fisheries management area on Indonesia.

It is necessary to provide sufficient evidence as to the absence of an official document, or a ship that has a permit to catch but it destroy the captured area thus it shall be penalized in addition to blasting the ship, and furthermore the ship's crew shall also be on the deportation to the country of origin. These foreign ships sinking Action starts can reduce *illegal fishing* that occurred in Indonesia, the action of sinking undertaken by the Government in various joint operations with security apparatus got swept up with the decline in cases of the theft of fish in all regions of Indonesia.

The sinking of the fishing vessel of foreign entry into the territory of Indonesia as well as stealing fish at seas is conducted to be able to pose a deterrent effect for the perpetrators. According to Ichsan as the Director of Fleet Operations Monitor the Ministry of marine and fisheries, there are still many ships waiting for the verdict of *inkracht* contains the ships that shall be destroyed, because if it is once ignored it will cause disease outbreaks, and high maintenance costs. Article 69 paragraph (4) Act No. 45 year 2009 on the amendment of law number 31 year 2004 concerning Fisheries affirming that fishing control ship has the functions in the aspects of control and law enforcement in the field of fishery within the fishery management zone of the state of the Republic of Indonesia, however, the present article is rarely enforced at the time the ship was at sea Since the year 2015 [5].

The purpose of such mandated action for Indonesia is to urge numbers IUUF as well as preserving the ecosystem of fish resources in order to awake the quality the quality of the fish. Special measures in the form of the sinking of the ship as a form of State jurisdiction in regulating and maintaining the authority of the law of the sea. The presence of the legal issues in the form of Illegal, Unregulated and Unreported Fishing, caused by the growing demand for fish world is an issue of law for Indonesia because Indonesia's fishing activities continue to increase, therefore the Government through such representation of the Ministry of marine and fisheries, Indonesia Navy (TNI AL), as well as the task force 115 to resolve legal issues with the sinking of vessels, which then constituted with the presence of the authority of each agency and principal tasks in accordance based on the Fisheries Act. Convention on the law of the Sea 1982 is the framework of Indonesia to apply exclusive rights against marine areas also facilitates in the exercise of jurisdiction in its territories. Fisheries legislation in Indonesia as a reference in making policy in the field of fisheries, fishing activities, especially to apply one of the article that is in the legislation. Obligation for Indonesia to maintain marine ecosystems with committed on one of the principles of the SDGs such as principle

14, because however the world has experienced over-exploitation in fishing activities by 30 percent.

## 5 Concluding remarks

In combating illegal fishing, the implementation of vessel-sinking is a type of Indonesia Government's efforts to maintain marine ecosystems, where the presence of fish needs an ever increasing world of which aligned with the increase in criminal acts of fisheries. In addition, special measures are forms of liability of Indonesia as participant in the exercise of state's jurisdiction. From such obvious cases, the mandated action of sinking of foreign vessels in the territorial waters of Indonesia as well as illegal fishing is conducted to pose deterrent effects for the perpetrators. The sinking of ships mainly draws attention at reducing the foreign vessels that accomplish violations in the sea of Indonesia and significantly efficient as an effort in protecting the sovereignty at the sea in Indonesia.

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